

## **Complaint**

Mr and Mrs P say Santander UK Plc (trading at the time as Alliance & Leicester) mis-sold them a payment protection insurance (PPI) policy for their mortgage.

## **Background**

This complaint is about a PPI policy taken out with a mortgage in late 1997. It was paid for with a regular monthly premium, which didn't attract interest. It covered Mr P in case he was off work sick or lost his job.

Our adjudicator upheld the complaint. Santander disagreed with the adjudicator's opinion, so the complaint's been passed to me to decide.

## **My findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

We've set out our general approach to complaints about the sale of PPI on our website and I've taken this into account in deciding Mr and Mrs P's case.

I think Mr and Mrs P's PPI policy was mis-sold here, for much the same reasons as our adjudicator.

Both sides have said Santander recommended the PPI to cover Mr P, which means it had to check it was right for him. It also had to give Mr and Mrs P information about the policy that was clear, fair, and not misleading. But I don't think the policy was right for Mr P, and it doesn't look like Mr and Mrs P were given clear enough information about it.

Mr P told us he had two jobs at the time of the sale: one self-employed line of work and one as an employee, and that both jobs were more than 16 hours a week. But the policy only would've paid out if Mr P was out of any work that was more than 16 hours a week, registered as unemployed, and actively looking for work.

This means Mr P could only claim on the PPI if he lost both lines of work at the exact same time – which was not a realistic possibility; or if he significantly scaled down or quit one line of work entirely just to claim – which would've been very onerous. So Mr P was not covered under the policy for what he'd reasonably expect to be covered for.

Mr P gave us his certificate of registration for his business from 1978, along with his earliest available tax return showing he was still self-employed in 2000. And he was able to find his P60 from 1998 showing he was in employment at the time of the sale.

Santander wants to see Mr P's tax return covering 1997. While I understand why it would like to see that, Mr P already explained that he'd destroyed the ones that were older than the return he gave us, which is fairly normal for old documents. And I need to be fair to both sides about what I can reasonably expect them to provide, given that the sale was over two decades ago. For example, Santander has been unable to provide documents to show that Mr and Mrs P even agreed to PPI, and we gave it the benefit of the doubt there because of all the time that's passed. But if I were to require both sides to give me substantial evidence from the time – as Santander is now requesting – then the complaint would still be upheld as Santander would be unable to show it gave Mr and Mrs P a fair choice about buying the PPI, or that they consented to buy it.

I think Mr P has given us as much evidence of his two jobs as I can reasonably expect from the time. Mr P's documents strongly suggest he had two jobs at the time of the sale. His P60 shows his employment at the sale. His oldest available tax return was from a relatively short time afterwards, and is consistent with his explanation that his self-employed work made up the majority of his income. Indeed, it seems less likely that Mr and Mrs P would've been given a mortgage if Mr P only had his employed salary. Finally, Mr and Mrs P's testimony has been consistent and credible, and I don't have any significant reason to doubt them.

So I think it's most likely that Santander recommended a policy to Mr and Mrs P which wasn't suitable for them. And based on what I've seen of the sale, I can't be satisfied that it gave them clear enough information about the policy's unemployment terms.

If Santander had given Mr and Mrs P suitable advice or clear enough information, then I think it's most likely they would not have bought the policy. So it follows that I think it's most likely that this policy was mis-sold to them.

### **Putting things right**

Santander should put Mr and Mrs P in the position they'd be in now if they hadn't taken out PPI. The policy should be cancelled, if it hasn't been cancelled already, and Santander should:

- Pay Mr and Mrs P back the amount they paid each month for the PPI.
- Add simple interest to each payment from when they paid it until they get it back. The rate of interest is 8% simple a year<sup>†</sup>.
- If Mr and Mrs P made a successful claim under the PPI policy, Santander can take off what they got for the claim from the amount it owes them.

<sup>†</sup> HM Revenue & Customs requires Santander to take off tax from this interest. Santander must give Mr and Mrs P a certificate showing how much tax it's taken off if they ask for one. Mr and Mrs P can claim back the tax if they don't pay tax.

**My final decision**

For the reasons I've explained, I uphold Mr and Mrs P's complaint.

Santander UK Plc should put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr and Mrs P to accept or reject my decision before 3 August 2019

Adam Charles  
**Ombudsman**